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show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

B. Petitioner’s Claims

Petitioner seeks federal habeas relief based on the ground that the Board’s decision to deny parole was not supported by “some evidence” bearing an indicia of reliability. (Pet. Attach. at 18-25.)

For the purposes of habeas federal habeas review, a California prisoner is entitled to only “minimal” procedural protections in connection with a parole suitability determination. Swarthout v. Cooke, 131 S. Ct. 859, 862 (2011). The procedural protections to which the prisoner is entitled under the Due Process Clause of the Fourteenth Amendment are limited to an opportunity to be heard and a statement of the reasons why parole was denied. Id. Petitioner makes no allegation in the petition to indicate that he did not receive at least this amount of process. The Constitution does not require more. Id. at 5.

Whether the Board’s decision was supported by some reliable evidence of current dangerousness is irrelevant in federal habeas. The Supreme Court has made clear that “it is no federal concern... whether California’s ‘some evidence’ rule of judicial review (a procedure beyond what the Constitution demands) was correctly applied.” Id. at 6. In light of the Supreme Court’s determination that due process does not require that there be any amount of evidence to support the parole denial, Petitioner’s claim fails to state a cognizable claim for relief.

CONCLUSION

For the foregoing reasons, the petition for a writ of habeas corpus is DISMISSED for failure to state a cognizable claim for relief.

Pursuant to Rule 11 of the Rules Governing Section 2254 Cases, a certificate of appealability (“COA”) under 28 U.S.C. § 2253(c) is DENIED because it cannot be said that “reasonable jurists” would find the district court’s assessment of the constitution

claims debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000).

DATED: 7/6/2012



EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JAMES WHEELAND,
Petitioner,

Case Number: CV11-02310 EJD

CERTIFICATE OF SERVICE

v.

RANDY GROUNDS, Warden,
Respondent.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 7/6/2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

James Wheeland F-93221
Soledad State Prison
P. O. Box 689
Soledad, CA 93960-0689

Dated: 7/6/2012

Richard W. Wieking, Clerk
/s/By: Elizabeth Garcia, Deputy Clerk